

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

2/8/23

GARY A. STEWART,

Plaintiff,

-against-

G. MEDINA, Correction Officer, employed at
Sing Sing Correctional Facility,

Defendant.

23-CV-0880 (VB)

ORDER OF SERVICE

VINCENT L. BRICCETTI, United States District Judge:

Plaintiff brings this *pro se* action under 42 U.S.C. § 1983 against Defendant G. Medina, whom Plaintiff identifies as a correction officer at Sing Sing Correctional Facility (“Sing Sing”). Plaintiff alleges Defendant created a substantial risk to Plaintiff’s safety, resulting in Plaintiff being attacked by another inmate at Sing Sing. By order dated February 6, 2023, the Court granted Plaintiff’s request to proceed *in forma pauperis* (IFP), that is, without prepayment of fees.¹

DISCUSSION

A. Service on Defendant Medina

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.² *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all

¹ Prisoners are not exempt from paying the full filing fee, even when they have been granted permission to proceed IFP. *See* 28 U.S.C. § 1915(b)(1).

² Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served the summons and the complaint until the Court reviewed the complaint and ordered that a summons be issued. The Court therefore extends the time to serve until 90 days after the date the summons is issued.

process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)).

To allow Plaintiff to effect service on Defendant Medina through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for this defendant. The Clerk of Court is further instructed to issue a summons and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendant Medina.

If the complaint is not served within 90 days after the date the summons is issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

B. Local Civil Rule 33.2

Local Civil Rule 33.2, which requires defendants in certain types of prisoner cases to respond to specific, court-ordered discovery requests, applies to this action. Those discovery requests are available on the Court’s website under “Forms” and are titled “Plaintiff’s Local Civil Rule 33.2 Interrogatories and Requests for Production of Documents.” Within 120 days of the date of this order, Defendant Medina must serve responses to these standard discovery requests. In the response, Defendant Medina must quote each request verbatim.³

³ If Plaintiff would like copies of these discovery requests before receiving the responses and does not have access to the website, Plaintiff may request them from the court’s Pro Se Intake Unit.

CONCLUSION

The Clerk of Court is directed to issue a summons for Defendant G. Medina, complete the USM-285 forms with the address for this defendant, and deliver to the U.S. Marshals Service all documents necessary to effect service.

Local Civil Rule 33.2 applies to this action. Defendant Medina must comply with Local Civil Rule 33.2 within 120 days of the date of this order.

The Clerk of Court is further directed to mail an information package to Plaintiff.

Dated: February 8, 2023
White Plains, NY

SO ORDERED:



Vincent L. Briccetti
United States District Judge

DEFENDANT AND SERVICE ADDRESS

1. Correction Officer G. Medina
Sing Sing Correctional Facility
354 Hunter Street
Ossining, NY 10562